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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)**

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THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID BROWN-WILLIAMS,

Defendant and Appellant.

C085895

(Super. Ct. No. 16FE023441)

Following the denial of his suppression motion, defendant David Brown-Williams pleaded no contest to felon in possession of a firearm (Pen. Code, § 29800, subd. (a)(1)).<sup>1</sup> He was sentenced to a stipulated term of two years in state prison.

On appeal, he contends the trial court erred in denying his suppression motion because he was detained when the encounter with the officer occurred. Finding no detention took place, we shall affirm.

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

## **FACTUAL AND PROCEDURAL BACKGROUND**

We take the relevant facts from the hearing on the suppression motion.

On December 22, 2016, at around 2:32 a.m., Sacramento Police Officer Conner Mills was on patrol in the Del Paso Heights area of Sacramento. During a traffic stop, defendant's car, a Dodge Defender, drove by his parked patrol vehicle. Officer Mills's standard procedure was to look "around to see what else is going past" during a traffic stop. Upon completing the stop, he got into his patrol car and started to follow the Dodge, turning off the patrol car's spotlight as he drove.

Officer Mills had to accelerate and run a stop sign to catch up to defendant's Dodge. As Officer Mills neared the car, defendant pulled over to the side of the road and stopped. Officer Mills pulled up behind defendant, turned on his patrol car's spotlight, and parked his car behind defendant's Dodge, at an angle, partially on the street.

Officer Mills walked up to defendant on the driver's side of the parked Dodge. He shined his flashlight inside the entire vehicle as a safety precaution. He first greeted defendant, and eventually asked defendant if he was on searchable probation or parole. Defendant said he was on searchable probation. After Officer Mills returned to his patrol car to confirm that defendant was subject to a probation search condition, he searched defendant's Dodge and found a firearm.

Two videos from Officer Mills's patrol car were presented at the suppression hearing. Consistent with Officer Mills's testimony, the first video shows that, after concluding the first traffic stop, Officer Mills drove back onto the street, turned off his spotlight, and drove to catch up to defendant's car, accelerating to 41 miles per hour and running a stop sign, and then slowing to 25 miles per hour, and then pulling up behind defendant. There is an approximately six-minute break between the first and second videos, with the second video showing Officer Mills going from defendant's car to the patrol vehicle, spending a little more than seven minutes inside the vehicle, and then

exiting the patrol car and returning to defendant's car, and then initiating the probation search.

The trial court denied the motion to suppress, finding defendant was not detained when he pulled his vehicle over, was approached by Officer Mills, and asked if he was subject to a search condition.

## **DISCUSSION**

Defendant contends the knowledge that he was subject to a probation search condition was the fruit of an unlawful detention by Officer Mills. We disagree.

“The standard of appellate review of a trial court's ruling on a motion to suppress is well established. We defer to the trial court's factual findings, express or implied, where supported by substantial evidence. In determining whether, on the facts so found, the search or seizure was reasonable under the Fourth Amendment, we exercise our independent judgment.” (*People v. Glaser* (1995) 11 Cal.4th 354, 362.)

Where the search is conducted without a warrant, the burden is on the People to establish by a preponderance of the evidence justification under a recognized exception to the warrant requirement. (*People v. Johnson* (2006) 38 Cal.4th 717, 728-729.) A probation search is one such exception. (*People v. Romeo* (2015) 240 Cal.App.4th 931, 939.)

“An officer may approach a person in a public place and ask if the person is willing to answer questions. If the person voluntarily answers, those responses, and the officer's observations, are admissible in a criminal prosecution. [Citations.] Such consensual encounters present no constitutional concerns and do not require justification. [Citation.] However, ‘when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen,’ the officer effects a seizure of that person, which must be justified under the Fourth Amendment to the United States

Constitution. [Citations.] In situations involving a show of authority, a person is seized ‘if “in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave,” ’ or ‘ “otherwise terminate the encounter” ’ [citation],’ and if the person actually submits to the show of authority [citation].’ ( *People v. Brown* (2015) 61 Cal.4th 968, 974.)

Defendant relies on *People v. Garry* (2007) 156 Cal.App.4th 1100 in support of his contention that he was unlawfully detained. In that case, an officer saw the defendant standing on a corner in a high-crime area. (*Id.* at pp. 1103-1104.) After observing the defendant for only five to eight seconds from his marked patrol vehicle, the officer illuminated defendant with his patrol car’s spotlight, got out of his police vehicle, and “all but ran” directly toward the defendant while asking him about his probation and parole status. (*Id.* at pp. 1104, 1111-1112.) The court found “only one conclusion is possible from this undisputed evidence: [The officer’s] actions constituted a show of authority so intimidating as to communicate to any reasonable person that he or she was ‘ “not free to decline [his] requests or otherwise terminate the encounter.” ’ ” (*Id.* at p. 1112.)

*Garry* is distinguishable. While, as defendant points out, Officer Mills sped up and ran a stop sign to catch up with defendant’s car, neither his siren, nor his emergency light, nor his spotlight were on as he drove towards defendant’s car. Officer Mills made no show of authority while driving that would lead a reasonable person to infer that he or she had to pull over and stop, like defendant did. When defendant pulled over and stopped, Officer Mills turned on his spotlight, walked to defendant’s car, and briefly conversed with him before asking if he was on searchable parole or probation. “While the use of high beams and spotlights might cause a reasonable person to feel himself [or herself] the object of official scrutiny, such directed scrutiny does not amount to a detention.” (*People v. Perez* (1989) 211 Cal.App.3d 1492, 1496; see *People v. Franklin* (1987) 192 Cal.App.3d 935, 938, 940; *People v. Rico* (1979) 97 Cal.App.3d 124, 128-

129, 130; cf. *People v. McKelvy* (1972) 23 Cal.App.3d 1027, 1032, 1034 [defendant in spotlight and surrounded by four armed officers]; *People v. Roth* (1990) 219 Cal.App.3d 211, 213, 215 [officer's use of spotlight and command to approach while standing behind the car door would convey to a reasonable person that he or she was not free to leave].) Officer Mills's actions, after he turned on the spotlight, are more consistent with a consensual encounter between an officer and a civilian than the aggressive actions that supported a finding of detention in *Garry*.

Officer Mills did not make a show of force or authority that would lead a reasonable person to believe he or she was detained. Defendant's answer to the inquiry about his parole or probation status was not the product of an unlawful detention. The trial court correctly denied defendant's suppression motion.

#### **DISPOSITION**

The judgment is affirmed.

\_\_\_\_\_**BUTZ**\_\_\_\_\_, Acting P. J.

We concur:

\_\_\_\_\_**MAURO**\_\_\_\_\_, J.

\_\_\_\_\_**DUARTE**\_\_\_\_\_, J.